THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

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WRIT PETITION NO : 18225 of 2005

DATED: 18-08-2005

R. Shankariah & 4 others.

..... PETITIONERS

AND

The Government of A.P.,

rep., by its Secretary,

Panchayat Raj Department,

Secrtariat Buildings,

Hyderabad & 5 others.

.....RESPONDENTS

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking a Mandamus declaring the action of the respondents, in issuing proceedings No. 899/04-B/Panchayat, dated 21-07-2005, as arbitrary, illegal and in violation of the provisions of the

A.P. Gram Panchayat Raj Act, 1994, and consequently call for the reports in

proceedings No. 899/04/B Panchayat, dated 21-07-2005.

2. It is the case of the petitioners that the 1st petitioner was elected as the Upa Sarpanch of the Lingojigudem, Choutuppal and petitioners 2 to 5 are the ward members. The members of the Gram Panchayat and the villagers have made a representation complaining against the Sarpanch. The Divisional Panchayat Officer, Bhongir, conducted an enquiry on 25-04-2005 as per Section 249(4) of the A.P.Gram Panchayat Act, 1994 (for brevity, "the Act") and the Sarpanch was found guilty of the charges and was suspended. As per Section 249(6) of the Act, the Sarpanch handed over the charge to the 1st petitioner. While so, as per the report of the Divisional Panchayat Officer the 2nd respondent issued a show cause notice, dated 20-11-2004, to the Sarpanch directing him to submit his explanation within 15 days. The Divisional Panchayat Officer conducted enquiry on 21-07-2005 and submitted his report. The 2nd respondent, having found the Sarpanch guilty of misappropriation of Rs.1,23,153/-, ordered for recovery of only Rs.68,000/-. Despite the orders, dated 20-11-2004, restricting the cheque power of the Sarpanch, he has drawn Rs.1,55,000/- by misleading the bank without obtaining the counter sign of the M.D.O., and in spite of it, the authorities have set aside his suspension. On 20-06-2005 the 1st petitioner complained the 2nd respondent against the Divisional Panchayat Officer, who conducted improper enquiry in collusion with the Sarpanch. Despite repeated representations of the petitioners the respondents paid a deaf ear without taking any action against the Sarpanch. Aggrieved thereby, the petitioners approached this Court by way of filing the present Writ Petition.

Section 264 of the Act reads as under:

> ***Power of Review and Revision by Government*** *(1) The Government may either suo motu or on application from any person interested, call for and examine the record of a Gram Panchayat, Mandal Parishad or a Zilla Parishad or of its standing committees or of any authority, Officer or person, in respect of any proceeding to satisfy themselves as to regularity of such proceeding or the occurrence, legality or propriety of any decision or orders passed and therein and, if in any case, it appears to the Government that any such decision or order should be modified, annulled or reversed or remitted for reconsideration, they may pass orders accordingly:-*
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> *Provided that the Government shall not pass any order pre judicial to any party unless such party had an opportunity of making a representation,*
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> *(2) The Government may stay the execution of any such decision or order*

pending exercise of their powers under sub-Section (1) in respect thereof.

(3) The Government may suo motu at any time or on an application receive from any person interested within 90 days of the passing of an order under sub-Section(1), review any such order if it was passed by them under any mistake, whether of fact, or of law, or in ignorance of any material fact. The provisions contained in the proviso to sub-Section (1) in sub-Section(2) shall apply in respect of any proceeding in this sub-Section as they apply to a proceeding in sub-Section (1).

(4) Every application preferred under sub-Section(1) shall be accompanied by a fee of fifteen rupees.

3. Without availing the alternative remedy provided under the above said Act, the petitioners approached this Court. Therefore, in view of the facts and circumstances, the Writ Petition fails.

4. Accordingly, the Writ Petition is dismissed. No order as to costs.

(DHARMA RAO ELIPE,J)

18th August, 2005.

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